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AN ACT

RELATING TO DOMESTIC VIOLENCE; INCREASING PENALTIES FOR THREE OR MORE BATTERIES OR AGGRAVATED BATTERIES AGAINST CERTAIN HOUSEHOLD MEMBERS; PROVIDING A DEFINITION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-3-11 NMSA 1978 (being Laws 1995, Chapter 221, Section 2) is amended to read:

"30-3-11. DEFINITIONS.--As used in the Crimes Against Household Members Act:

A. "household member" means a spouse, former spouse or family member, including a relative, parent, present or former step-parent, present or former in-law, a co-parent of a child or a person with whom a person has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member for the purposes of the Crimes Against Household Members Act; and

B. "continuing personal relationship" means a dating or intimate relationship."

Section 2. Section 30-3-15 NMSA 1978 (being Laws 1995, Chapter 221, Section 6, as amended) is amended to read:

"30-3-15. BATTERY AGAINST A HOUSEHOLD MEMBER.--

A. Battery against a household member consists of the unlawful, intentional touching or application of force to the person of a household member, when done in a rude,

1 insolent or angry manner.

2 B. Whoever commits battery against a household  
3 member is guilty of a misdemeanor.

4 C. Upon conviction pursuant to this section, an  
5 offender shall be required to participate in and complete a  
6 domestic violence offender treatment or intervention program  
7 approved by the children, youth and families department  
8 pursuant to rules promulgated by the department that define  
9 the criteria for such programs.

10 D. Notwithstanding any provision of law to the  
11 contrary, if a sentence imposed pursuant to this section is  
12 suspended or deferred in whole or in part, the period of  
13 probation may extend beyond three hundred sixty-four days but  
14 may not exceed two years. If an offender violates a  
15 condition of probation, the court may impose any sentence  
16 that the court could originally have imposed and credit shall  
17 not be given for time served by the offender on probation;  
18 provided that the total period of incarceration shall not  
19 exceed three hundred sixty-four days and the combined period  
20 of incarceration and probation shall not exceed two years."

21 Section 3. Section 30-3-16 NMSA 1978 (being Laws 1995,  
22 Chapter 221, Section 7, as amended) is amended to read:

23 "30-3-16. AGGRAVATED BATTERY AGAINST A HOUSEHOLD  
24 MEMBER.--

25 A. Aggravated battery against a household member

1 consists of the unlawful touching or application of force to  
2 the person of a household member with intent to injure that  
3 person or another.

4 B. Whoever commits aggravated battery against a  
5 household member by inflicting an injury to that person that  
6 is not likely to cause death or great bodily harm, but that  
7 does cause painful temporary disfigurement or temporary loss  
8 or impairment of the functions of any member or organ of the  
9 body, is guilty of a misdemeanor.

10 C. Whoever commits aggravated battery against a  
11 household member by inflicting great bodily harm or doing so  
12 with a deadly weapon or doing so in any manner whereby great  
13 bodily harm or death can be inflicted is guilty of a third  
14 degree felony.

15 D. Upon conviction pursuant to Subsection B of  
16 this section, an offender shall be required to participate in  
17 and complete a domestic violence offender treatment or  
18 intervention program approved by the children, youth and  
19 families department pursuant to rules promulgated by the  
20 department that define the criteria for such programs.

21 E. Notwithstanding any provision of law to the  
22 contrary, if a sentence imposed pursuant to the provisions of  
23 Subsection B of this section is suspended or deferred in  
24 whole or in part, the period of probation may extend beyond  
25 three hundred sixty-four days but may not exceed two years.

1 If an offender violates a condition of probation, the court  
2 may impose any sentence that the court could originally have  
3 imposed and credit shall not be given for time served by the  
4 offender on probation; provided that the total period of  
5 incarceration shall not exceed three hundred sixty-four days  
6 and the combined period of incarceration and probation shall  
7 not exceed two years."

8 Section 4. A new section of the Crimes Against  
9 Household Members Act is enacted to read:

10 "MULTIPLE CONVICTIONS OF BATTERY OR AGGRAVATED  
11 BATTERY.--

12 A. Whoever commits three offenses of battery  
13 against a household member as provided in Section 30-3-15  
14 NMSA 1978 or aggravated battery against a household member as  
15 provided in Subsection B of Section 30-3-16 NMSA 1978, or any  
16 combination thereof, when the household member is a spouse, a  
17 former spouse, a co-parent of a child or a person with whom  
18 the offender has had a continuing personal relationship is  
19 guilty of a fourth degree felony.

20 B. Whoever commits four or more offenses of  
21 battery against a household member as provided in Section  
22 30-3-15 NMSA 1978 or aggravated battery against a household  
23 member as provided in Subsection B of Section 30-3-16 NMSA  
24 1978, or any combination thereof, when the household member  
25 is a spouse, a former spouse, a co-parent of a child or a

1 person with whom the offender has had a continuing personal  
2 relationship is guilty of a third degree felony.

3 C. For the purpose of determining the number of  
4 offenses committed, each offense must have been committed  
5 after conviction for the preceding offense."

6 Section 5. APPLICABILITY.--The provisions of Section 4  
7 of this act apply to convictions obtained on or after  
8 July 1, 2008.

9 Section 6. EFFECTIVE DATE.--The effective date of the  
10 provisions of this act is July 1, 2008. \_\_\_\_\_

SB 68  
Page 5

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